

EXHIBIT E

Defendant.

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) **Case Number: 17-cv-4412**
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) **Judge: Hon. Harry Leinenweber**
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I, Jay Rudman, declare and state as follows:

1. This declaration is based upon my personal knowledge of the facts stated herein, and on business records that were made at or near the time by — or from information transmitted by — someone with knowledge, and which were kept in the course of a regularly conducted activity of the business, and making the records was a regular practice of that activity, which include all of the exhibits listed herein. If called as a witness, I could and would testify to the statements made herein.

2. I am the Chief Executive Officer of TopstepTrader, LLC (“TST”), and have been in that position since March 2017, but have been involved with TST in various capacities since February 2015. I received a BSE degree from The Wharton School at The University of Pennsylvania in 1992, and an MBA from The University of Chicago Booth School of Business in 1997.

3. I am knowledgeable about or have access to business records concerning all

aspects of TST, including, but not limited to, its copyrights, other intellectual property, sales, on-line sales, advertising, marketing, and media coverage.

4. TST owns the copyrights in all of its content, including, but not limited to the United States copyright application number 1-5001234481.

5. TST owns all rights in the copyrighted content at issue, and has at all times relevant to this action.

6. Exhibit A is a true and correct copy of TST's Terms of Use ("TOU").

7. Exhibit B is a true and correct copy of TST's Terms of Use ("TOU") from November 14, 2012 to September 16, 2016.

8. Exhibit C is a true and correct copy of TST's "Sign up for free" webpage.

9. Exhibit D is a true and correct copy of TST's "Sign up for free" webpage as it existed prior to November 1, 2016.

10. Internal business records show that Serif Sisman had participated in TST's Combine on at least three different occasions.

11. Internal business records show that Sattam Alsabah had activated an account with TST.

12. All customers must click that they agree to TST's Terms of Use in order to set up an account with TST, or to access and participate in TST's Trading Combine®.

13. Exhibit F includes true and correct copies of TST's "Learn How," "Trading Combine Rules," "Trading Combine Parameters," and "How do I reset my account?" webpages.

14. OneUp has not obtained any rights or licenses from TST to use any of its content.

15. Violating TST's TOU causes irreparable harm to TST's business, and monetary damages cannot adequately compensate TST for any ongoing infringement and breach of TST's

TOU because monetary damages fail to address the loss of current and future business.

Furthermore, monetary damages are difficult to ascertain due to the difficulty of calculating measurable damage in dollars and cents caused to TST due to the infringement of its copyrighted content and breaches of its TOU.

16. TST will suffer immediate and irreparable injury, loss, or damage if a Temporary Restraining Order is not issued.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 20, 2017

RESPECTFULLY SUBMITTED,

By: 
Jay Rudman

1. The undersigned, being duly sworn, deposes and says that the foregoing is a true and correct copy of the original document as the same appears in the files of the undersigned.

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